

**2014-346
BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-346-WS**

IN RE:)	
)	
Application of Daufuskie Island Utility)	
Company, Inc. for Approval of an)	DIUC's RESPONSE TO ORS'S REPORT
Adjustment for Water and Sewer Rates,)	ON PERFORMANCE BOND, RATES,
Terms and Conditions.)	AND REFUNDS
)	
_____)	

Yesterday, pursuant to Commission Order No. 2016-208, the Office of Regulatory Staff (“ORS”) filed its Report on Performance Bond, Rates, and Refunds (the “Report”). Daufuskie Island Utility Company, Inc. (“DIUC”) hereby responds to the Report, both to answer questions raised in the Report and also to again point out the previously explained basis for the refunds and rate adjustments implemented by DIUC under the authority of the Commission’s directive of December 20, 2017 and its full decision in its Order on Rehearing, Order No. 2018-69, dated January 31, 2018. In addition, DIUC asks that the Commission now release the surety for the bonds, a request that has been held in abeyance pending completion of ORS’s Report.

Background

In response to the Commission’s order on December 20, 2017, on December 22, 2017 DIUC filed for a \$955,136 rate increase¹ to become effective for the January 1, 2018 quarterly billing, distributing that filing to the parties as required by the Commission. ORS indicated that it

¹ DIUC’s calculation of the stated adjustments in the December 20, 2017 Commission order produced an increase of \$955,136 instead of “approximately \$950,166” stated in the Order. DIUC’s detailed calculations were filed with the compliance rates, and because the Commission’s December 20, 2017 Order did not contain schedules that developed the \$950,166, DIUC assumed the \$955,136 was within the approximation after taking into account typical fall out adjustments.

would not review DIUC's filed rates until the Commission issued its full order. On January 16, 2018, DIUC submitted a letter to the Commission and all parties that provided a comprehensive explanation and calculation of the refunds, including the interest calculation, along with the calculation of the revenue requirement and resultant water and sewer rates. On January 31, 2018 the Commission issued Order 2018-68, again allowing a \$950,166 increase.² On February 20, 2018, DIUC petitioned the Commission for reconsideration of its January 31, 2018 Order No. 2018-68.

ORS did not raise an issue regarding the calculation of the refund in response to the Commission's January 31 Order No. 2018-68 or in its response to DIUC's February 20, 2018 petition for reconsideration, despite DIUC's providing ORS a comprehensive presentation of the basis for the refund calculations on January 16, 2018. Instead, ORS first raised the issue of the refunds on March 19, 2018, in response to DIUC's March 7, 2018 request to release the surety bonds and letter of credit. To accommodate ORS, the Commission's April 11, 2018 Order No. 2018-274 held in abeyance its decision with respect to DIUC's motion and directed ORS to complete its review of the refund issue by April 30, 2018.

On March 21, 2018, the Commission denied DIUC's petition for reconsideration. On March 28, 2018, in time for its April 1, 2018 quarterly billing, DIUC filed rates for the \$950,166 and resultant refunds in compliance with the Commission's directive.

Rate Verification

On page 5 of its Report, while acknowledging that DIUC's April 1, 2018 billing does not exceed the \$950,166 increase, ORS states that it "could not verify DIUC refunded its customers

² Commission Order 2018-68 also did not contain a schedule detailing the calculation of the \$950,166 increase.

for the difference between the \$955,136 billed by DIUC in January 2018 and the \$950,166 approved by the Commission in Order 2018-68.” DIUC is unsure why ORS could not confirm that this refund had occurred since DIUC previously provided ORS the information necessary to confirm this adjustment had been made and refund accomplished. Attachment B of ORS’s Report itself contains DIUC’s March 28, 2018 compliance filing that clearly demonstrates the rates will not only generate the reduction for the difference between the \$955,136 and the \$950,166, but also for the refund, with interest. On pages 26 and 27 of ORS’s Attachment B, DIUC’s compliance filing states:

“The difference between the \$955,136 increase reflected in the existing rates and the adjusted \$950,166 increase is \$4,970, which for a year and a half would require a pre-interest refund of \$7,455, plus \$447 of interest at 12% applied to the average amount of the pre-interest refund.”..... “Because the refund with interest is so small, on average only a little over \$0.63 per quarterly bill (a range of \$0.49 to \$1.39), it is not economical to incur administrative costs and billing system costs of including a refund for this billing then revising the entire calculation for the next billing. Therefore, the revised rates will include a reduction for the refund for all future billings. This provides every customer with an additional credit in every billing cycle, until the next rate revision is effectuated by appeal or subsequent rate application.”

In addition to this text explanation, page 30 of ORS’s Attachment B shows the revenue requirement of \$2,023,759 that is reflective of the \$950,166 increase, and page 33 shows the billing analysis under the proposed rates that will generate \$2,015,847. The difference between the \$2,023,759 and the \$2,015,847 is \$7,912 which equates to the refund of \$7,455 plus interest of \$447 or \$7,902 (rounded for the application of rates to billing units). In sum, it is puzzling why ORS could not verify information that it has had in its possession for over a month. In any event, under the April 1, 2018 compliance rates, the customers will benefit by some \$7,902 for the required refund and then another \$7,902 more than required for each future quarterly billing until final rates are established.

Refund Verification

On page 6 of its Report, ORS states that it “could not verify interest refunded by DIUC to the current/active customers equates to 12% per annum.” Referring to page 6 of 12 of Attachment F of its Report, which is the detailed calculation that DIUC provided on January 16, 2018 to show the calculation of the interest refunded for customers that had been billed for 6, 5, 4, 3, 2 and 1 quarters, ORS points out that for customers billed for 6 and 5 quarters, DIUC used an adjusted interest rate of 11%. Stating that the 11% is not consistent with S.C. Code Ann. Section 58-5-240(D), cited on page 5 of its Report, ORS refers to Table 3 on page 6 entitled “ORS Analysis of Interest Rates for Refunds.” The problem is that there is no “analysis” in ORS’s Table 3 but merely a list of interest rates for 1 through 6 Quarters. There is no narrative explaining how the interest rates in Table 3 were calculated and no calculations in support of Table 3. It is obvious that ORS has used 12% instead of DIUC’s 11%, which is wrong. DIUC will explain why.

Section 58-5-240(D) states that the 12% interest rate per annum should “commence on the date that the disallowed increase is *paid* and continue until the date the refund is made.” (Emphasis added”) By using 12 % for an entire year, ORS’s method would give refunds to customers from the time DIUC first sends out bills, not from the time the customers make payments. DIUC’s method of calculating interest is shown on page 6 of 12 of ORS’s Attachment F, which explains in its assumptions that as an exception for customers billed for 6 and 5 quarters, a payment lag of 30 days was used for the time between billing and payment, resulting in an adjusted interest rate of 11%. In other words, in order to be consistent with Section 58-5-240(D), DIUC used an adjusted interest rate of 11% in order to account for the time payments were made, on average. This method

of calculating interest is significantly conservative in favor of the customers because it is limited only to one year for the customers billed for 6 and 5 quarters but full nominal interest rates were applied for the remaining quarters. Accordingly, both the refunds made with the January 1, 2018 and the April 1, 2018 quarterly billings were higher than required under Section 58-5-240 (D). The reason DIUC took this conservative approach is because the additional amount of the refunds saved time and cost for the billing process.

As for former customers, as DIUC explained in response to ORS's discovery requests, if refunds are made to former customers and the ultimate rates turn out to be higher than approved so far, there would be no reasonable way to recoup the refund in part or in whole from them. DIUC has detailed records of payments by every customer served during the period from April 1, 2016 to date. The rates that will ultimately result after litigation of this rate case is complete can be no lower than the \$950,166 increase. The rates could ultimately be higher, in which case recouping excess refunds would be attainable from existing customers and should also be attainable from former customers.

Conclusion

There is no risk to the customers from the release of the bond and letter of credit. All refunds to customers have been accomplished through credits on billings at approved rates. A future adjustment to the refunds, if any, can likewise be accomplished through credits applied to the customer billings. As to the refund to those persons who are no longer customers, given their very small number, DIUC can pay them out of pocket the refunds that are ultimately determined to be due. There is no reasonable likelihood that the bonds will be called upon to make payment.

Further, the refunds to the customers were significantly more than necessary. But, even if there could be some additional refund, the level would be so minor in relation to the refunds already

made that they could be accomplished simply by complying with a Commission directive. On the other hand, the cost DIUC continues to incur for this rate proceeding is counter-productive, particularly considering its need to obtain financing for essential improvements and additions to its utility systems that are necessary to provide adequate service to its customers.

DIUC respectfully requests that the Commission determine that (i) DIUC has appropriately handled and accounted for the refunds due its customers and (ii) release the bond and letter of credit.

Respectfully submitted,

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May 1, 2018
Charleston, South Carolina

CERTIFICATE OF SERVICE

This is to certify that on May1, 2018, I caused to be served upon the counsel of record named below a copy of the foregoing Response to ORS Report on Performance Bond, Rates, and Refunds, by electronic mail, as indicated.

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